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February 8, 2017

Via ECF

Honorable P. Kevin Castel
Daniel Patrick Moynihan
U.S. Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: David Rodriguez v. Amtrak and Brian Salter
Civil Action No.: 1:16-cv-03297-PKC

Dear Judge Castel:

My office represents National Railroad and Passenger Corporation, d/b/a Amtrak (“Amtrak”) and Brian Salter (“defendants”) in the above referenced matter. Please allow this letter as defendants’ request for extension of the court-ordered 2/10/17 supplemental exam deadline, as well as a 30 day extension of the expert discovery deadline in this action to 3/23/17. Plaintiff consents to defendants’ requested extension.

As background, plaintiff underwent a 12/19/16 lumbar decompression procedure, after defendants’ initial 12/8/16 IME. Defendants’ supplemental examination of plaintiff was originally scheduled for 2/1/17, consistent with the court’s prior 2/10/17 supplemental exam deadline. To date, defendants have not obtained any records related to plaintiff’s procedure; defendants’ physician required same prior to conducting the exam; and defendants adjourned the 2/1 exam late last month until 3/9/17, defendants’ physician’s first available date for re-scheduling.

Plaintiff was not notified of the 2/1 exam prior to its adjournment, and has not delayed defendants’ efforts to obtain records--an initial request by defendants for the Bronx Lebanon medical record was rejected because a specialized authorization was required; not the HIPAA complaint executed authorization previously obtained by defendants from plaintiff.

Finally, defendants’ requested extension will not affect defendants’ ability to meaningfully participate in this action’s 3/2 mediation, and will not delay the current deadline to submit a summary judgment briefing schedule. A trial date is not yet scheduled. Further, plaintiff timely served his narrative medical report, and defendants will serve initial defense medical reports this week.

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We thank Your Honor for your kind consideration of defendants' request.

Respectfully submitted,



Charles W. Mondora, Esq.

CWM:atr

cc: James Magee, Esq.